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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,979

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09/10/2008

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EXAMINER

PAINTER, BRANON C

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,979	Applicant(s) VAN DIJK, JACOBUS JOHANNES WILHELMUS	
	Examiner BRANON C. PAINTER	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/24/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 04/24/06 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file. The information disclosure statement is being considered by the examiner.

Claim Objections

2. Claims 1-9 are objected to because of the following informalities:
 - a. Claims 1-9, "Greenhouse." For the purpose of this examination, the examiner presumes this should read "A greenhouse."
 - b. Claim 1, "imparts." For the purpose of this examination, the examiner presumes this should read "imparting."
 - c. Claim 1, "forms." For the purpose of this examination, the examiner presumes this should read "forming."
 - d. Appropriate correction is required for all preceding objections.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 is rendered vague and indefinite by the phrase "and/or". It is unclear what is required by this limitation. The examiner suggests replacing this phrase with "or". Appropriate correction is required.
6. Claims 5 and 9 recite the limitation "the carriage". There is insufficient antecedent basis for this limitation in the claim. A carriage is not positively claimed in claim 1 because it is introduced as part of a statement of intended use. The examiner suggests positively claiming a carriage in claim 1 to overcome this rejection. For the purpose of this examination, the examiner presumes that a carriage refers to anything which may be moved along the rail system.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

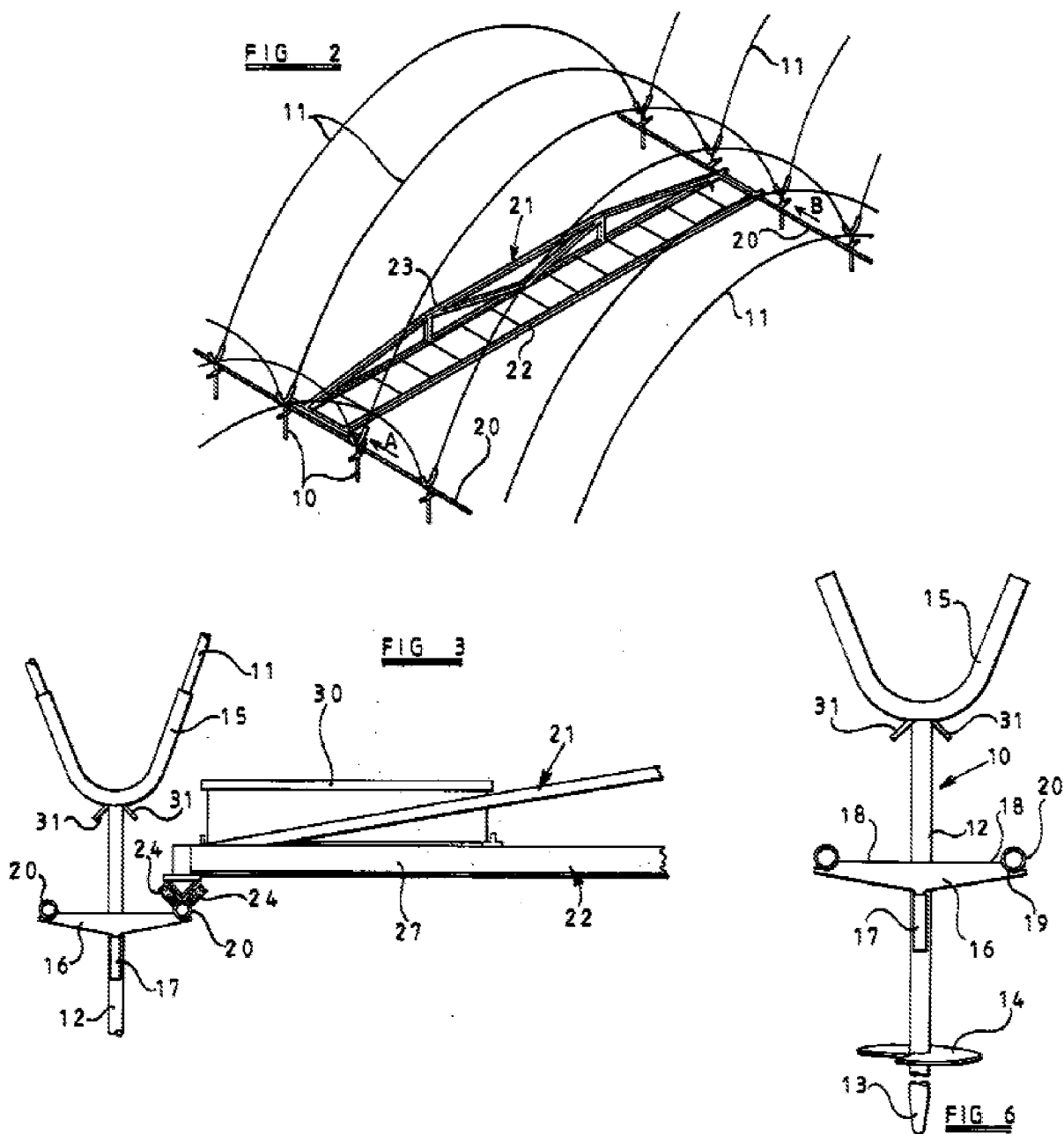
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
1. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davison (GB 2,341,833) in view of Brown, Jr. (6,098,335).
 2. Regarding claim 1:
 - a. Davison discloses a gantry system including:
 - i. A greenhouse construction (Fig. 2) comprising columns (10) and horizontal support members (21) spaced from the floor.
 - ii. A rail system (20) fixed to the horizontal support members (20 fixed to 21 via 24, Fig. 3).
 - iii. The rail system extending continuously over a distance of at least three successive columns (Fig. 2).
 - b. Davison does not appear to expressly disclose vertical boundary walls.
 - c. Brown discloses that it is well-known to provide such greenhouse structures with vertical boundary walls (82, Fig. 1).
 - d. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the greenhouse construction of Davison by adding vertical boundary walls as taught by Brown, in order to protect the plants inside from the elements and allow the moisture intake of such plants to be controlled.

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- e. The examiner notes the phrase "for moving...said area" is considered a recitation of intended use. As such, it is given little patentable weight. That said, the system disclosed by Davison could be used in such a way.



Reproduced from Davison

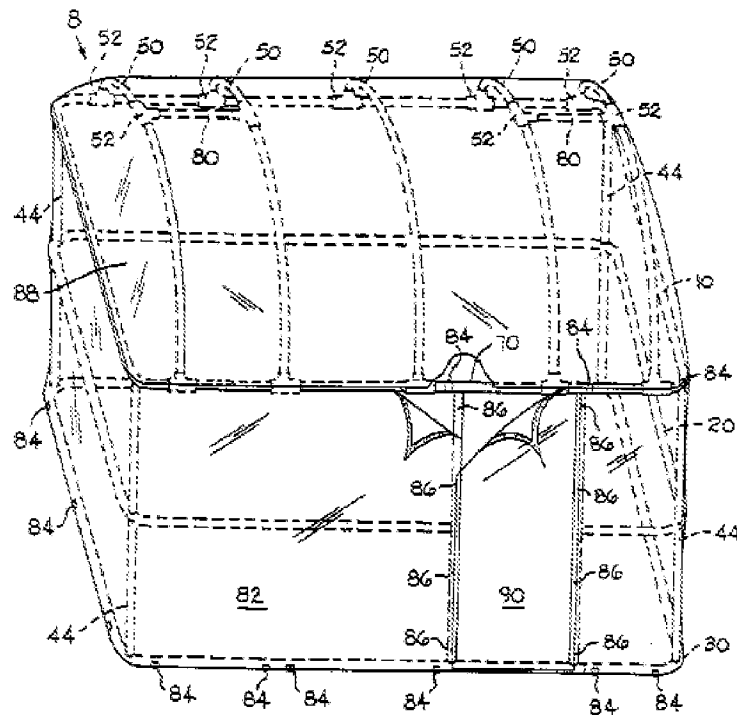
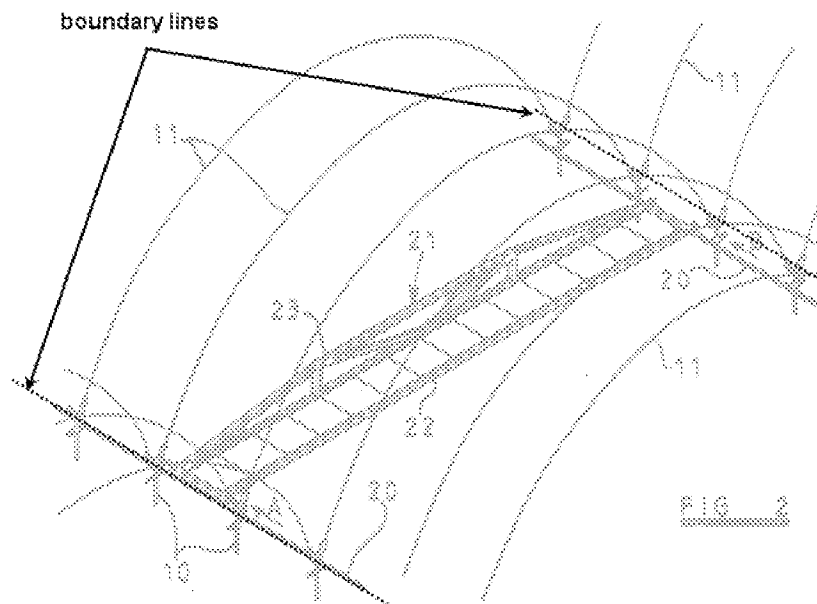


FIG. 1

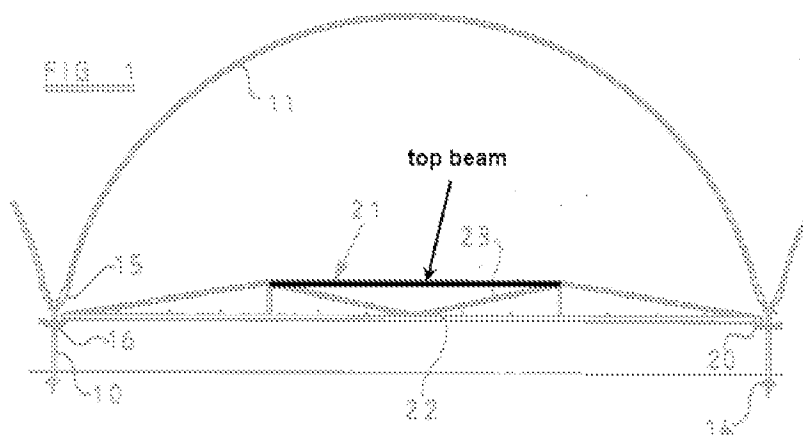
Reproduced from Brown

3. Regarding claim 2, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing horizontal members comprising longitudinal beams (21), with a roof construction (11) bearing on said columns (bearing on 15 of columns 10), each roof bordering the subsequent roof along a boundary line that is perpendicular to the longitudinal beams and the rail system (amended Fig. 2).



Reproduced from Davison (amended)

4. Regarding claim 3, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing longitudinal beams comprising at least two longitudinal sections located some distance apart (22 and “top beam”, amended Fig. 1) and connected by link sections (23, Fig. 1).



Reproduced from Davison (amended)

5. Regarding claim 4, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing one rail of the rail system (20) fixed to one of the longitudinal sections (fixed to 22 via 24).
6. Regarding claim 5, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing means at the end of the rail system for moving a carriage in a direction perpendicular thereto (24, Fig. 3).
 - a. The examiner notes that the carriage is considered to be empty or full containers that ride on the gantry (p. 4, 16-17).
7. Regarding claim 8, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing a rail system with a power supply (p. 9, 4-7).
8. Regarding claim 9, Davison/Brown as modified above discloses a greenhouse construction as set forth above.
 - a. The examiner notes that the claim attempts to place limitations on a member (the carriage) that is not positively claimed. As mentioned above, containers riding on the gantry can be considered a carriage (p. 4, 16-17). Furthermore, while Davison does not disclose the containers in detail, it would be obvious to use a container with a handle (which can be considered "gripping and lifting means"), as buckets with handles are notoriously well-known in the art.
9. Regarding claim 1:
 - a. Davison discloses a gantry system including:

- i. A greenhouse construction (Fig. 2) comprising columns (10) and horizontal support members (16) spaced from the floor.
 - ii. A rail system (20) fixed to the horizontal support members (16, Fig. 6).
 - iii. The rail system extending continuously over a distance of at least three successive columns (Fig. 2).
 - b. Davison does not appear to expressly disclose vertical boundary walls.
 - c. Brown discloses that it is well-known to provide such greenhouse structures with vertical boundary walls (82, Fig. 1).
 - d. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the greenhouse construction of Davison by adding vertical boundary walls as taught by Brown, in order to protect the plants inside from the elements and allow the moisture intake of such plants to be controlled.
 - e. The examiner notes the phrase “for moving...said area” is considered a recitation of intended use. As such, it is given little patentable weight. That said, the system disclosed by Davison could be used in such a way.
10. Regarding claim 6, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing horizontal support members comprising a ridge section (19) with a rail system (20) on which a construction that can be moved along it (27) is mounted.
11. Regarding claim 7, Davison/Brown as modified above discloses a greenhouse construction, with Davison further disclosing horizontal support members

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comprising a guttering section (19) with rail system (20) along which a construction fixed thereto (27) can be moved.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANON C. PAINTER whose telephone number is (571)270-3110. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. C. P./
Examiner, Art Unit 3633
08/04/08

/Brian E. Glessner/
Supervisory Patent Examiner, Art Unit 3633